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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,973	02/06/2001	John R. Goedel	12570.1USC1	3327

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EXAMINER

SWINEHART, EDWIN L

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 03/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 12/10/02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 26-31 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 26-31 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

1. Claims 26-31 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

A "buoy wrap" is not understood. The structure or makeup thereof is unclear, and therefore one of ordinary skill in the art could not make and/or use same.

The newly added limitations of "removable from and placeable on" find no support in the specification as originally filed.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Severence et al. in view of Murayama et al.

Severence et al. teaches the field of the invention, including a pair of phosphorescent bulbs/caps 22. Severence et al. fails to disclose the claimed material.

Murayama et al. teaches such a material, and further teaches application to buoys.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to form the caps of Severence et al. from a phosphorescent material as that taught by Murayama et al.

Such a combination would have been desirable at the time of the invention was made so as to provide for a buoy which will glow a substantial amount of time in the dark.

4. Applicant's arguments filed 12/10/2002 have been fully considered but they are not persuasive.

Applicant argues that Severence et al. fails to teach a buoy cap mounted upon a buoy.

The examiner does not agree, as "cap" fails to define any specific structure and/or arrangement so as to define over the elements **22** of Severance et al.

Re the newly added limitations of removability, Applicant states that the caps of Severence et al. are removable in his/her comments, and the examiner references this statement in support of the rejection made.

Applicant argues that the structure of a buoy wrap is clear from the language "buoy wrap", and therefore such is clear.

Since there is no disclosure as originally filed re a "buoy wrap", its structure is unclear/unknown, and there is no basis for making such a claim in the specification as originally filed.

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Papers relating to this application may be submitted to Technology Center 3600 by facsimile transmission. The submission of such papers by facsimile transmission must comply with the notice published in the Official Gazette, **1096 OG 30** (November 15, 1989). The Fax Center number is (703)-872-9326.

7. Any inquiry concerning this communication should be directed to Ed L. Swinehart whose telephone number is (703)-308-2566.

8. Any inquiry of a general nature or relating to the status of the application should be directed to the Technology Center 3600 receptionist whose telephone number is (703)-308-1113.

February 26, 2003


Ed L. Swinehart
Primary Examiner
Art Unit 3617